

12-10-01

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12/06/01
JC682 U.S. PTO

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: AOKI, et al)	Examiner: Anish Gupta
)	(parent app.)
)	
Serial Number: Pending)	Art Unit: 1654 (parent app.)
)	
Filed: Herein)	
)	
For: <u>METHOD FOR TREATING A</u>)	
<u>MUCUS SECRETION</u>)	Irvine, California

J1046 U.S. PTO
10/008722
12/06/01

TRANSMITTAL LETTER

BOX PATENT APPLICATION
Assistant Commissioner for Patents
U.S. Patent and Trademark Office
P.O. Box 2327
Arlington, VA 22202

Dear Sir:

Transmitted herein for filing under 35 U.S.C. §120 and 37 C.F.R. 1.53(b) is a new utility (divisional) patent application for the invention entitled METHOD FOR TREATING A MUCUS SECRETION invented by K. Roger Aoki et al. This application is continuation in part of pending application serial number 09/487,477, filed January 19, 2000, which is a divisional of pending application serial number 08/627,118, filed April 3, 1996, which is a continuation of application serial number 08/173,996, filed December 28, 1993, now abandoned.

- (x) Transmittal Letter – 3 pgs.
- (x) Specification (27 pages) 16 Claims (3 pages); Abstract (1 page)
- () Drawings (___ sheets)
- (x) Declaration/Power of Attorney
- (x) Assignment with Recordation Cover Sheet
- (x) Letter to Examiner
- (x) 2 Terminal Disclaimers
- (x) Return/postage paid Postcard
- (x) Express Mail No. EL385559025US

(X) The Commissioner is hereby authorized to use Deposit Account Number 01-0885 for the payment of any extension fees incurred during the prosecution of this application.

(X) The filing fee is calculated below:

10009722 420601

FOR	NUMBER FILED	NUMBER EXTRA	RATE	FEE
Basic Fee (Large entity)			\$740.00	\$740.00
Total Claims	16 minus 20 =	<input type="checkbox"/>	\$18.00	.00
Independent Claims	4 minus 3 =	1	\$84.00	84.00
If application contains any multiple dependent claims, then add			\$280.00\$.00
TOTAL FILING FEE				\$824.00

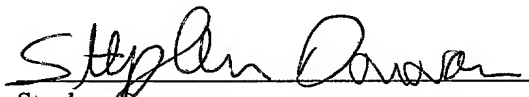
The Commissioner is hereby authorized to charge the filing fee and excess claim fees (including multiple dependent claim fee) as stated above to Deposit Account No. 01-0885. If this amount is incorrect, or for payment of any other fees that may be incurred as a result of this communication please use said Deposit Account. A duplicate copy of this sheet is enclosed for that purpose.

A copy of an assignment bestowing all interest in this application to Allergan Sales, Inc is enclosed.

Applicants hereby claim the benefit under 35 U.S.C. §120 from pending application serial number 09/487,477, filed January 19, 2000, from pending application serial number 08/627,118, filed April 3, 1996, which was a continuation of application serial number 08/173,996, filed December 28, 1993, now abandoned, the contents of which prior filed applications are hereby incorporated by reference in their entireties into the application filed herein.

The Commissioner is hereby authorized to charge any required or necessary fee associated with the filing of this paper and any of the attached documents, and to credit any overpayment to, deposit account number 01-0885.

Date: December 6, 2001


 Stephen Donovan
 Registration Number 33,433

Please direct all correspondence and inquiries to:

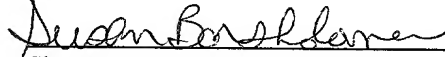
Stephen Donovan
 Allergan, Inc.
 2525 Dupont Drive, T2-7H
 Irvine, CA 92612
 Tel: 714 246 4026
 Fax: 714 246 4249

CERTIFICATE OF EXPRESS MAIL UNDER 37 C.F.R. §1.10

I hereby certify that this Transmittal Letter, Continuation-in-Part patent application and additional documents are being deposited with the United States Postal Service on **December 6, 2001** in an envelope as "Express Mail Post Office To Addressee" mailing label number EL385559025US with sufficient postage for Express Mail addressed to BOX PATENT APPLICATION, Assistant Commissioner for Patents, U.S. Patent and Trademark Office, Arlington, VA 22202.

Susan Bartholomew

Name of person mailing paper



Signature of person mailing paper

Date: December 6, 2001

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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TERMINAL DISCLAIMER TO OBIVATE A PROVISIONAL DOUBLE PATENTING
REJECTION OVER A PENDING SECOND APPLICATION**

Docket Number (Optional)

16952 CONTINUOUS CIP

In re Application of:

Application No.:

Filed:

For: METHOD FOR TREATING A MUCUS SECRETION

The owner*, ALLERGAN, INC., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second Application Number 09/490,754, filed on 1/24/00, of any patent on the pending second application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record.

Stephen Anwar 12/5/01
Signature Date

STEPHEN DONOVAN

Typed or printed name

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

Reg No. 33,433
- charge to deposit acc. 01-0885

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).

Form PTO/SB/96 may be used for making this statement. See MPEP § 324.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Serial Number: Pending)	Art Unit: 1654 (parent app.)
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For: METHOD FOR TREATING A)	
<u>MUCUS SECRETION</u>)	Irvine, California

LETTER TO EXAMINER

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

This application is a continuation-in-part of serial number 09/487,477, filed January 19, 2000 (the parent application"), which is a divisional of serial number 08/627,118, filed April 3, 1996, which is a continuation of serial number 08/173,996, filed December 28, 1993, now abandoned.

The November 6, 2001 office action in the parent application serial number 09/487,477 has only double patenting rejections over serial numbers 08/627,118 and 09/490,754. There are no remaining art or Section 112 rejections of the claims in the parent application serial number 09/487,477. The broadest claim remaining in the parent application serial number 09/487,477 is :

"A method for treating a mucus secretion of a patient, the method comprising the step of administering to a patient an effective

09/487,477-120604

amount of a botulinum toxin in order to reduce a mucus secretion of the patient."

The broadest claim in the present application is:

A method for treating a mucus secretion of a patient, the method comprising the step of administering to a patient an effective amount of a botulinum toxin in order to reduce a mucus secretion of the patient, wherein the mucus secretion is not a symptom of rhinorrhea.

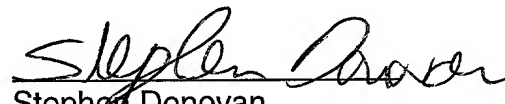
Hence, the present claims are more narrow than the claims last pending in the parent application, serial number 09/487,477.

Enclosed are two executed terminal disclaimers over serial numbers 08/627,118 and 09/490,754.

Thus, the present claims are in condition for allowance and allowance of claims 1-16 is therefore requested.

Respectfully Submitted,

Date: December 4, 2001


Stephen Donovan
Registration Number 33,433

Please direct all correspondence to:

Stephen Donovan
Allergan, Inc.
2525 Dupont Drive
Irvine, CA 92612
Telephone: 714 246 4026

Fax: 714 246 4249

CERTIFICATE OF EXPRESS MAIL UNDER 37 C.F.R. §1.10

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Susan Bartholomew

Name of person mailing paper

Susan Bartholomew

Signature of person mailing paper

Date: December 6, 2001